



# Department of Justice

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BY

THE HONORABLE EDWARD H. LEVI  
ATTORNEY GENERAL OF THE UNITED STATES

AT

THE DEDICATION CEREMONY

OF

THE FEDERAL BUREAU OF PRISONS DETENTION CENTER

11:00 A.M.  
WEDNESDAY, OCTOBER 15, 1975  
FEDERAL BUREAU OF PRISONS DETENTION CENTER  
CHICAGO, ILLINOIS

I am pleased to have a part in dedicating this new federal detention center in Chicago. It is an impressive structure in many respects. It stands as a successful experiment in architecture, meeting the challenge of providing a facility for federal prisoners secure enough to exist near the heart of the business district yet attractive enough to take its place among the commercial buildings. It was courageous -- and quite appropriate -- to attempt such an experiment here. The buildings that make up Chicago's skyline represent some of the finest architecture in the world. This city has been the focus of great advances in engineering and design.

This new structure is evidence of the federal government's commitment to upgrade the conditions in which federal prisoners must live and to facilitate the efficient operation of the criminal justice system. The President in his message to Congress on crime emphasized that commitment. He recognized that he cannot accomplish the task alone.

The spirit of cooperation is alive here. The man to whom this new building is dedicated -- Honorable William J. Campbell -- is an example of it. Judge Campbell celebrated his 35th anniversary as a federal judge just five days ago, and during those years he has led the effort to provide training for new court personnel and to make the criminal justice system here

work smoothly. A great deal of the credit for the success of this new building must go to Judge Campbell. As the plaque dedicating this facility to Judge Campbell states, his "leadership, vision and untiring efforts made this facility a reality." I am personally and officially delighted that this recognition has been given.

Standing near the federal courthouse, this center was designed to make the work of the federal judges, the marshals, the probation officers, the parole board and the Immigration and Naturalization Service go forward with greater dispatch and efficiency. At least as important, it was designed to be a decent and humane place. The Chicago Daily News has said it is at "the cutting edge of humanitarianism." And that is as it should be.

This is especially true because of the nature of this facility. It is to house many persons who have not been convicted of a crime but who are either awaiting trial or are awaiting action by immigration authorities. But the requirement of humaneness extends also to those who have been convicted of crime. This was the point the President emphasized. This is the important goal toward which the Federal Bureau of Prisons is moving.

It is a difficult and expensive effort. Many federal prisons are inadequate by the Bureau of Prison's own standards. Many state and local prisons are even worse. Most persons convicted of crime will not be sent to institutions as humane as this one. Most will go to inadequate jails, many of which

are a national disgrace. It is estimated that bringing federal prisons up to the standards we have set for them will cost \$180 million. And that figure seems a pittance compared with the estimated \$20-30 billion it would cost over time to bring state and local jails up to minimum standards.

Spending money to build prisons never has been popular. Frequently the argument is that it is not worth the money to provide better living conditions for those we are trying to punish. Their own deeds have brought about this separation. Moreover, it must be admitted, there are many demands on limited resources. Today there is an additional argument. It is sometimes said that no new prison facilities should be built because the very idea of a prison is outmoded. It is urged, sometimes with great emotion, that prisons should be abolished.

There is a harshness to the first objection which we can ill afford. Society is not well served by placing convicted criminals, or indeed individuals involved in the criminal process but not convicted, in squalid, dehumanizing conditions. The severe restrictions upon freedom that even the most decent penal institutions impose do serve as deterrence for potential wrongdoers, if our criminal system can be made to move fast enough. The failure of criminal law to deter crime does not result from an image of prison as a comfortable place. Even if we think of the criminal law as serving as a controlled mechanism to exact retribution, we ought to remember that it was to serve the requirements of humaneness as well as of order, that personal vengeance is no longer the law's way of justice. Such humaneness is not sentimental. It is important to the quality of our society. It is important to the victim as well as to the miscreant.

The second objection to building new prisons results from an opposite impulse. It is the objection of some penal reformers who have become disillusioned with the results of earlier attempts at reform. To understand it, the argument must be seen against the history of the idea of imprisonment.

Imprisonment itself was at one time a grand reform. As Pollock and Maitland wrote: "The use of imprisonment as punishment. . . is a sign of advancing civilization." Of course, they saw it as a contrast with the practices of outlawry, capital punishment for minor offenses, and maiming. The origin of jails in England can be seen as early as the 10th century -- and at that time they were opposed by some as useless and much too mild.

While the existence of jails dates back to medieval times, the idea of penitentiaries is modern -- indeed, it is American. Largely it is the product of the Quaker notion that if a wrongdoer were separated from his companions, given a great length of time to think about his misdeeds, and with the help of prayer he would mend his ways. This late 18th Century concept was the beginning of what has come to be known as the "rehabilitative ideal."

In time the monastic, religious element -- the penitence in penitentiaries -- fell away. But the idea of rehabilitation as the sole or main justification for imprisonment continued to gain in acceptance. Rehabilitation was regarded as entirely different from and indeed opposed to retribution or prevention. Criminologists took sides in this argument. I think it is fair to say that as time went on psychologists and sociologists rallied under the banner of rehabilitation. It

was an optimistic ideal. The era was one in which great discoveries had been made. It did not seem too much to hope that both the causes of crime and the cure for it would become readily accessible to knowledge, and that eventually we would be able to treat misconduct with the same success we were learning to treat disease. So rehabilitation seemed practical. Yet, even as it was coming into favor, the idea as the sole justification for imprisonment met with some skepticism. Oliver Wendell Holmes, Jr. voiced this skepticism when he said that if rehabilitation was the only justification for incarceration, and if an offender were "incurable, then he should not be punished at all."

Today, in the cycles of attitudes so characteristic of our nation, there is great and overwhelming disappointment with the failure of rehabilitation. We really do not have sufficiently good crime statistics to answer correctly all the purposes we use the statistics for. The statistics are not comparable as between places or over time. Nevertheless as the data are analyzed, it does seem to appear that persons who have spent time in prison are not less likely to commit crime again. Perhaps, indeed, they are more likely to do so. This supposed fact alone has given rise to disillusionment, and to the argument that we should no longer spend funds to upgrade or to build new prisons. Along with the argument of the uselessness of prisons is added the point that the idea of individualized treatment, borrowed from the hospital analogy, is in itself a

form of cruelty. Indeterminate sentences -- the logical extension of the treatment model since, to put it one way, hospitals cannot decide in advance when the patient will be well again -- have borne great criticism. They are said to leave the prisoner in a profoundly uneasy state of uncertainty. He does not know when he will be free, and he is given no specific tasks to get himself free. Prisons therefore have come to be regarded as an unmitigated evil to be done away with.

In 1971, the Quaker American Friends Service Committee published a book called Struggle for Justice. It proclaimed the failure of the reforms of the Quakers of the 19th Century had with such optimism undertaken. Its publication was the symbol that the ideal of rehabilitation had been abandoned.

Let me say I do not agree that the ideal of rehabilitation should be abandoned, nor do I believe that rehabilitation is the main reason for the necessity for incarceration. I think it is most unfortunate if we cloud our vision with a debate built around such supposed opposing choices.

There is a necessity for punishment in our criminal system. One reason for this was put clearly by Holmes. He wrote: "The first requirement of a sound body of law is, that it should correspond with the actual feelings and demands of the community, whether right or wrong. If people would gratify the passion of revenge outside of the law, if the law did not help them, the law has no choice but to satisfy the craving itself, and thus avoid the greater evil of private retribution. At the same time, this passion is not one which we encourage, either as private individuals or as lawmakers."

At a time of a shocking rising crime level, the condition which Holmes was describing cannot be ignored, even though, as he said, the passion, should not be encouraged. But even if we do not encourage the passion, we must take account of the fear which accompanies it. There is great fear, and there is outrage, in our country because of the effects of lawlessness. We have a major problem to solve.

The most important thing to accomplish, if we can -- and we must -- is to discourage crime in the first place. Our criminal law system must be made to operate so that it does deter crime. It does not do so now. It never will do so if appropriate punishment does not swiftly follow, with a high enough degree of certainty, the commission of a crime. I realize, as we all do, that in any system there will be slippage. Defendants will use the flaws in the system to their own advantage. But a level of civility or safety or what President Ford and the founders of our republic have termed domestic tranquility is essential for a democratic society. The President's mandatory minimum sentence proposals are designed to buttress the deterrent force of the law, at least with respect to serious offenses that involve the possibility of bodily injury to the victim. There are good and sufficient reasons -- essential reasons -- to continue incarcerating criminal offenders even if we do not have confidence that they will emerge from prison less likely to commit another crime than when they entered.

Even as we recognize these reasons, however, we must also recognize that they are not in conflict with the goal of rehabilitation. If it is nonsense to say that the purpose of prison is only to rehabilitate, it is also nonsense to say that rehabilitation never occurs. Decent treatment itself is a kind of rehabilitation. It can reinforce decency in return just as much as substandard inhumane conditions of confinement can reinforce a negative effect. Especially with respect to the young, we simply cannot give up on the effort to bring those who have broken the law back into harmony with the society. We can hold out the opportunity to inmates to improve themselves and their chances of success outside the walls and not detract from the deterrent value of their punishment. This is not to dispute Norval Morris, who has written persuasively that the belief that rehabilitation can be coerced is fallacious -- that it must be voluntary. Particular programs in prison certainly can be made voluntary.

This facility and others like it are small but most significant items along the road to solving one of our country's most important problems. It is sad we have this problem. It is most important we try to solve that problem with humaneness and determination.

As Judge Campbell knows, advances in our criminal justice system do not come easy. This facility makes an advance and is a model. I congratulate those who have helped to bring it into being. I trust its operation will live up to the promise it gives.